



**MINUTES OF SPECIAL JOINT MEETING OF
THE CITY COUNCIL/REDEVELOPMENT
AGENCY OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 15, 2001, 8:00 p.m.**

MEETING

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Henson.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, Henson
MAYOR Cooper
Absent: None

PROCLAMATIONS: National Emergency Medical Services Week May 13 - 19, 2001

Mayor Cooper presented the proclamation to Fire Chief Larry Arfsten. She noted her appreciation for the assistance that her husband received at his time of need. Fire Chief Arfsten thanked the Council and invited all to an open house program that will be presented at the fire station on Saturday. He displayed informational and educational materials that will be distributed to the public.

National Peace Officers' Week, May 13 - 19, May 15 Peace Officers' Memorial Day

Mayor Cooper read the proclamation and presented it to Chief Craig Calhoun, who commented that there will be a series of events held at Southland Mall, May 17, 18, and 19, to commemorate those officers who gave their lives in the line of duty.

PUBLIC COMMENTS

Ron Barklow, 1210 Tiegen Drive, commented on the Home Depot development site and its impact on burrowing owls. He expressed concern for the welfare of burrowing owls on airport grounds.

Jason Moreno, 25200 Carlos Bee Boulevard, commented on overtime in the fire department.

Jim Drake, 25795 Franklin Avenue, made suggestions on the proposed power plant.

CONSENT

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of May 8, 2001

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It was moved by Council/RA Member Hilson, seconded by Council/RA Member Ward, and unanimously carried to approve the Minutes of the Special Joint City Council/Redevelopment Agency Meeting of May 8, 2001.

2. Slurry Seal, Pavement Repair and Rehabilitation 2001/02: Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated May 15, 2001, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 01-066, "Resolution Awarding Contract to Bond Blacktop, Inc. for Pavement Slurry Seal 2001/02, Project No. 5104"

Resolution 01-067, "Resolution Awarding Contract to Gallagher & Burk, Inc. for Pavement Rehabilitation 2001/02, Project Nos. 5103, 5104, 5105, 5743, and 6825"

3. Approval of Interim Water Shortage Allocation Plan

Staff report submitted by Deputy Director of Public Works/Utilities Ameri, dated May 15, 2001, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 01-068, "Resolution Approving Proposed Interim Water Shortage Allocation Plans to Allocate Water Between the San Francisco Public Utilities Commission (SFPUC) and Among Suburban Purchasers During Water Shortages Caused by Drought"

HEARINGS

4. Hearing on Report and Assessment for Rental Residential Inspection Fees Past Due

Staff report submitted by Senior Housing Inspector Bragg, dated May 15, 2001, was filed.

Senior Housing Inspector Bragg made the presentation and enumerated adjustments to the lien list that eliminated the following: 2, 6, 8, 9, 10, 15, 17, 18 and 25 which were paid in full.



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Mayor Cooper opened the public hearing at 8:32 p.m.

Richard Gabel, 4725 Rollinghills Way, Castro Valley, speaking on behalf of Donald Cline, asked why the City is proposing a lien against their property. It was noted that the lien is for a progress check, one inspection, after last year's hearing. Mr. Gabel indicated that there is currently a lawsuit pending. He reiterated his request for code violations related to the lawsuit. He stated that, as the owner, they have asked for a warrant to be obtained before inspections occur. This has not happened.

City Attorney O'Toole advised the Council that while a lawsuit had been filed, there had not been a hearing on the matter and that no rulings had been made by the Court. He further advised that it was his opinion that the Council had the legal authority to proceed with the lien proceeding on their agenda.

The City Attorney also pointed out that the tenant in possession of the property had given consent to inspect the property.

Senior Housing Inspector Bragg noted that this lien is a result of the inspection of March 24, 2000. The City has not returned to inspect the property since then. He said he had not seen the lawsuit since it was filed.

Council Member Ward asked if the City's inspection program would be jeopardized if the property owner and the tenant refused to allow an inspection.

City Attorney O'Toole advised that in the instance where both the property owner and the tenant refused to allow an inspection, the City would obtain an inspection warrant from the Court and inspect the property under Court order.

In response to statements made and questions asked by Mr. Gabel, City Attorney O'Toole cautioned the Council about discussing the existing litigation. He further advised the Council that the matter they were considering was a hearing to place a lien on the subject property. Since the lien being placed on the property is for recovery of the City's cost of inspection, the evidence that the Council should consider was whether there was an inspection of the property and whether the cost of that inspection had been paid by the owner as required by statute.

Mr. Gabel asked when he was going to receive due process.

City Attorney O'Toole responded that the current hearing represented due process regarding the placing of a lien on the property.

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Mr. Gabel stated that Mr. Cline would like all of the matters in the current court proceeding to be included in the Council hearing.

City Attorney O'Toole responded that Mr. Cline had the opportunity to provide the Council with any evidence he desired at the hearing. If he had court files that he wanted to present to the Council he could do so but that the City did not have any court files to present this evening.

Mayor Cooper closed the public hearing at 8:40 p.m.

Council Member Henson moved the item with the proper deletions noted.

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried to adopt the following with staff adjustments as previously indicated:

Resolution 01-069, "Resolution Confirming the Report and Assessment of Overdue Residential Rental Inspection Fees for Calendar Year 2000"

5. Hearing on Report and Assessment for Community Preservation Fees Past Due

Staff report submitted by Senior Community Preservation Inspector Mork, dated May 15, 2001, was filed.

Senior Community Preservation Inspector Mork reported that the following invoices were paid in full: item numbers 24, 28, 45, and 52. He noted a reduced balance for items 19 and 54.

Mayor Cooper opened the public hearing at 8:45 p.m.

Robert Johnson, 779 Overhill Drive, indicated that he was parked on private property and runs a business from his home. He noted that he had removed the vehicles. He commented that he filled his front yard with rock in order to park vehicles and had no lawn.

Senior Community Preservation Inspector Mork provided further information related to parking on the front yard. He reported that there were a total of three inspections. He also showed photographs of the property in question. He said there were still rules regarding parking in the front yard of a home. He also noted that the lien must be paid before the last week in July to avoid being placed on the County tax rolls.

City Manager Armas commented that the Council would hear the public input on the items and decide any changes to the charges presented in the staff report.

Melvin Velazquez, 27228 Whitman Street, noted that he was told that there would be no charge



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after he complied with the inspector's requirements.

Senior Community Preservation Inspector Mork commented that the original complaint was that there were people living in a shed at the home. When the property was inspected, there was no evidence of this violation. However, the inspector noted a vehicle on a second illegal driveway. After this was taken care of, they were in full compliance. He commented that the matter was continued through December as they were given three months to comply due to his health problems.

Council Member Henson asked why the illegal structure was still noted on the report when the issue under discussion is the driveway.

City Attorney O'Toole commented that the driveway, itself, could be considered a structure since it was concrete.

Council Member Hilson asked about the extent of time for the applicant to be in compliance.

Senior Community Preservation Inspector Mork reported that the notice was dated on September 29th, giving them until October 14th to complete the work. The work was actually completed by December 20th, due to health circumstances. The actual time involved was only a week for completion of the work.

Doris Daniels, 1137 Tiegen Drive, described the comments of the inspector as to how well the property looked. She asked for payment arrangements if she had to pay the bill.

Senior Community Preservation Inspector Mork described the property with debris, refrigerator and scrap wood and weeds. In December, the property failed the inspection and was given another compliance date for January. Initially, on January 3, there was no compliance. In January, there was compliance. This was given an additional continuance.

Mayor Cooper closed the public hearing at 9:08 p.m.

Council Member Ward moved, seconded by Council Member Hilson, to accept the report and afford Ms. Daniels the time to make the payments affordable.

Council Member Henson commented that the issues for Mr. Velazquez are different. Although the second driveway can be considered a structure, this is a different issue from the initial inspection, he asked for a substitute motion that would cut Mr. Velazquez' payment in half.

Council Member Ward asked Mr. Velazquez to clarify whether he had any knowledge of the

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illegal driveway when the property was inspected.

Mr. Velazquez agreed that there was discussion regarding the illegal driveway.

Council Member Dowling seconded the motion to accept the report, the deletions and adjustments recommended by staff, and cutting in half the amount owed by Mr. Velazquez.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 01-070, "Resolution Confirming the Report of the Enforcement Officer for Public Nuisance and Abatements from Certain Properties in the City of Hayward in Connection with the Community Preservation Program for 2000"

6. Hearing on Report and Assessment for Weed Abatement Fees Past Due

Staff report submitted by Senior Community Preservation Inspector Mork, dated May 15, 2001, was filed.

Senior Community Preservation Inspector Mork reported that there were no adjustments to the list in the staff report.

Council Member Ward asked why there were so few names on the list this year. He was told that staff has warned people of the increased fees and that the City would do the clean up if it does not happen. This might have motivated people to comply.

As there were no requests to speak, Mayor Cooper opened and closed the public hearing at 9:16 p.m.

It was moved by Council Member Hilson, seconded by Council Members Rodriguez and Ward, and unanimously carried to adopt the following:

Resolution 01-071, "Resolution Confirming the Report of the Enforcement Officer for Weed, Rubbish, and Litter Abatement from Certain Properties in the City of Hayward in Connection with the Community Preservation Program for 2000"

COUNCIL REPORTS

There were no Council reports.

ADJOURNMENT

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Mayor Cooper adjourned the meeting at 9:17 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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